

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARK WOODARD,

Plaintiff,

ORDER

09-cv-776-wmc¹

v.

U.S. TREASURY,

Defendant.

Plaintiff Mark Woodard brought this suit against the U.S. Treasury, alleging that it has been garnishing money from his Social Security income even though it is likely that he “owes no tax due to circumstances that again the IRS refuses to respond to.” In a February 25, 2010 order, this court explained that it lacks jurisdiction to hear Woodward’s claims involving tax obligations except in those situations in which he had paid his entire tax due and is suing for a refund. The court gave plaintiff until March 18, 2010, to submit a supplement to his complaint alleging payment of the entire tax that the IRS believes he

¹ This case was among those reassigned to me pursuant to a March 31, 2010 administrative order.

owes or the case would be dismissed for lack of subject matter jurisdiction.

Plaintiff has now filed a supplement stating “I am suing for a refund and had paid the entire tax due with the 2007 filing,” which suffices to establish subject matter jurisdiction at this point.

The next step is for plaintiff to serve his complaint and supplement on defendant. While Fed. R. Civ. P. 4(m) allows plaintiff 120 days after filing to serve a complaint on the defendant, that is an outside limit with few exceptions and this court requires that a plaintiff act diligently in moving his case to resolution. Accordingly, plaintiff should be able to serve his complaint on defendant well before the deadline for doing so established in Rule 4.

To help plaintiff understand the procedure for serving a United States agency, attached with this order is a copy of a document entitled “Serving the United States, Its Agencies, Corporations, Officers, or Employees.” In addition, enclosed are the forms plaintiff will need to send to defendant in accordance with the procedures set out in the attached memorandum on service.

ORDER

IT IS ORDERED that plaintiff Mark Woodard serve his complaint and supplement on defendant and file proof of service to this court as soon as it has been accomplished. If by June 14, 2010, plaintiff fails to submit proof of service of his complaint and supplement

on the defendant or explain his inability to do so, I will direct plaintiff to show casue why his case should not be dismissed for lack of prosecution.

Entered this 12th day of April, 2010.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge